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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOHN V. FERRIS and JOANN M.
FERRIS, Individually and on Behalf of All
Others Similarly Situated,

Plaintiffs,

v.

WYNN RESORTS LIMITED, STEPHEN
A. WYNN, CRAIG SCOTT BILLINGS,
STEPHEN COOTEY, MATTHEW O.
MADDOX, JOHN J. HAGENBUCH,
ROBERT J. MILLER, PATRICIA
MULROY, CLARK T. RANDT JR.,
ALVIN V. SHOEMAKER, KIMMARIE
SINATRA, DANIEL B. WAYSON, JAY
L. JOHNSON, RAY R. IRANI, and J.
EDWARD VIRTUE,

Defendants.

Case No. 2:18-cv-00479-APG-BNW

**STIPULATED AMENDED DISCOVERY
PLAN AND SCHEDULING ORDER**

Pursuant to LR 26-1, the Parties¹ stipulate to the following, except as to where the Parties have set forth their respective positions regarding the submission of supplemental privilege logs and amended pleadings.

WHEREAS the above referenced action is subject to the Private Securities Litigation Reform Act of 1995;

WHEREAS on July 1, 2020, Plaintiffs filed their Second Amended Class Action Complaint (the “Complaint”) (Dkt. No. 122);

WHEREAS on August 14, 2020, Defendants filed their motions to dismiss and/or joinders thereto (*e.g.*, Dkt. Nos. 125, 128, 132);

WHEREAS on July 28, 2021, the Court granted, in part, and denied, in part, Defendants’ motions to dismiss (Dkt. No. 171);

WHEREAS on August 18, 2021 the Court entered an order granting the Parties’ stipulation to extend Defendants’ deadline to answer the Complaint to August 31, 2021 and the deadline for the Parties’ Joint Rule 26(f) Report/proposed discovery plan and scheduling order September 30, 2021 (Dkt. No. 175);

WHEREAS on August 31, 2021, Defendants filed their Answers to the Complaint (Dkt. Nos. 176-79);

WHEREAS, by Order dated October 4, 2021, the Magistrate Judge who was then assigned to this Case bifurcated discovery into two phases: Phase One, which was limited to issues concerning class certification, and Phase Two, which encompasses merits discovery, including loss causation, and damages. The Magistrate Judge who was then assigned to this Case further ordered that, within 21 days of any Order concerning class certification, that the parties submit a second proposed discovery plan for Phase Two discovery to address all remaining merits-based and damages discovery;

¹ The Parties that remain in this action are: (1) Lead Plaintiffs John V. and JoAnn M. Ferris (“Lead Plaintiffs”), (2) additional named plaintiff Jeffrey Larsen (“Additional Plaintiff”, and together with Lead Plaintiffs, “Plaintiffs”); and (3) Defendants Wynn Resorts Limited (“Wynn Resorts” or the “Company”), Stephen A. Wynn (“Wynn”), Stephen Cootey, Matthew O. Maddox, and Kimmarie Sinatra (collectively, “Defendants”).

1 WHEREAS, by Order dated March 2, 2023, the District Court granted Plaintiffs' motion
2 for class certification, appointed John Ferris, JoAnne Ferris, and Jeffrey Larsen as Class
3 Representatives, and appointed Pomerantz LLP as Class Counsel (Dkt. No. 283);

4 WHEREAS the Parties filed a Stipulated Discovery Plan and Scheduling Order on
5 March 23, 2023, requesting a hearing for a special scheduling review. Pursuant to LR 26-1(b),
6 this Joint Rule 26(f) Report outlined the Parties' disagreement on the form or contents of the
7 discovery plan and provided a statement of each party's position on each point in dispute (Dkt.
8 No. 285);

9 WHEREAS a special scheduling review hearing was held before the Court on April 6,
10 2023, during which the Court ordered the Parties to file a Joint Discovery Plan and Scheduling
11 Order providing the dates ordered by the Court (Dkt. No. 295);

12 WHEREAS the Court granted the Parties' Stipulated Discovery Plan and Scheduling
13 Order on April 28, 2023 (Dkt. No. 302);

14 WHEREAS Plaintiffs filed a Motion to Compel additional discovery on November 21,
15 2023 (Dkt. No. 327), Defendants opposed on December 5, 2023 (Dkt. Nos. 328, 330), and
16 Plaintiffs replied on December 12, 2023 (Dkt. No. 341);

17 WHEREAS Defendants filed a Motion for Protective Order on December 5, 2023 (Dkt.
18 Nos. 329-34), Plaintiffs opposed on December 22, 2023 (Dkt. No. 352), and Defendants replied
19 on January 5, 2023 (Dkt. Nos. 354-55);

20 WHEREAS Defendants filed a Motion for Partial Summary Judgment on the Alleged
21 February 12, 2018 Corrective Disclosures on November 14, 2023 (Dkt. Nos. 314-26), Plaintiffs
22 opposed on December 5, 2023 (Dkt. Nos. 335-36), and Defendants replied on December 19, 2023
23 (Dkt. Nos. 343-45);

24 WHEREAS a hearing was held before the Court on February 12, 2024 regarding
25 Plaintiffs' Motion to Compel and Defendants' Motion for Protective Order, and a hearing was set
26 for rulings on the motions (Dkt. No. 365);

WHEREAS Plaintiffs moved for an extension of the fact discovery deadline from May 31, 2024 until August 29, 2024 (Dkt. No. 362), and by Order dated March 36, 2024, the Court granted the Motion (Dkt. No. 363);

WHEREAS Plaintiffs filed a Motion to Compel regarding Defendants' privilege log on May 22, 2024 (Dkt. No. 366);

WHEREAS a hearing was held before the Court on May 24, 2024 granting in part and denying in part Plaintiffs' Motion to Compel additional discovery, granting in part and denying in part Defendants' Motion for Protective Order, and suspending the briefing for Plaintiffs' Motion to Compel regarding Defendants' privilege log in consideration of the appointment of a Special Master (Dkt. Nos. 371);

WHEREAS, by Order dated May 29, 2024, the Court denied Defendants' Motion for Partial Summary Judgment without prejudice to refile the motion no sooner than 30 days after Defendants' compliance with the Court's May 24, 2024 Order at Dkt. No. 373 and any Order in relation to Plaintiff's Motion to Compel regarding Defendants' privilege log (Dkt. No. 366) (Dkt. No. 375);

WHEREAS, by Order dated June 4, 2024, the Court denied Plaintiffs' Motion to Compel without prejudice in light of an impending appointment of a Special Master (Dkt. No. 378);

WHEREAS the Court indicated the Parties should submit a proposed amended schedule and discovery plan.

STIPULATED SCHEDULE AND DISCOVERY PLAN

1. This case is to be tried to a jury.

2. Service of all papers may be made by email on the Parties.

3. Alternative Forms of Case Disposition: The Parties have considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-01) and do not consent, but the Parties may at any later time consent to such alternative forms of case disposition.

4. Initial Disclosures: The Parties exchanged their initial disclosures under Fed. R. Civ. P. 26(a) on Friday, **September 24, 2021.**

1 **5. Defendants' Amended Response to Plaintiffs' First Request for Production:**

2 (a) Defendants' amended responses to Plaintiffs' First Request for Production
3 of Documents to Defendants, dated September 15, 2021, were served on the necessary parties on
4 Thursday, **April 27, 2023**.

5 **6. Fact Discovery:**

6 (a) Documents shall be produced on a rolling basis.

7 (b) Initial privilege logs were produced by Wednesday, **January 31, 2024**.

8 (c) Supplemental document productions shall be completed by Friday,
9 **September 13, 2024**.

10 (d) Supplemental privilege logs for additional document productions shall be
11 submitted by Friday, **October 4, 2024**.

12 (i) **Plaintiffs' Position:** A supplemental privilege log related to the
13 expedited discovery ordered by the Court in Dkt. No. 373 shall be submitted within 21 days of
14 production of such expedited discovery.

15 (ii) **Defendants' Position:** The parties have stipulated that
16 supplemental privilege logs encompassing all additional document productions shall be submitted
17 by Friday, October 4, 2024. In light of this, a separate supplemental privilege log related
18 specifically to the expedited discovery is unnecessary and would be burdensome. A single
19 deadline for a supplemental privilege log of all additional discovery would allow for efficient and
20 productive discussions should the parties have privilege disputes as to certain entries.

21 (e) All fact discovery (including depositions) must be concluded by
22 Wednesday, **November 27, 2024**.

23 **7. Expert Discovery:**

24 (a) Expert discovery must be completed by Wednesday, **May 14, 2025**.

25 (b) Expert discovery (including expert depositions) will be sequenced to allow
26 Defendants to depose Plaintiffs' experts prior to Defendants' submitting their opening reports.

27 (c) Expert disclosures conforming with Rule 26 must be made no later than
28 the following dates:

(i) Plaintiffs' opening expert reports, if any, shall be submitted by Wednesday, **December 4, 2024**.

(ii) Plaintiffs' opening experts shall be deposed by Wednesday, **January 15, 2025**.

(iii) Defendants' opening expert reports, if any, shall be submitted by Wednesday, **February 26, 2025**.

(iv) Defendants' opening experts shall be deposed by Wednesday, **April 9, 2025**.

(v) Rebuttal expert reports shall be submitted by Wednesday, **May 14, 2025**.

8. Amended Pleadings and Additional Parties:

(a) ***Plaintiffs' Position:*** Amended pleadings shall be filed **within 60 days** after the close of fact discovery, in order to provide Plaintiffs with the necessary time to review the additional documents that Defendants were ordered to produce pursuant to this Court's May 24, 2024 Discovery Order. Setting the deadline for motions to amend the pleadings after the close of fact discovery is consistent with the Stipulated Discovery Plan and Scheduling Order pursuant to the Court's April 6, 2023 Motion Hearing Order, which provided that any motion to amend the pleadings may be made after the close of fact discovery.

(b) ***Defendants' Position:*** As the class has been certified, no additional parties may be joined at this stage, and no pleading may be amended. However, should the Court permit amended pleadings, the original deadline of Friday, **June 28, 2024** should remain. Amended pleadings or additional parties would require the parties to conduct additional discovery, so any amendment should occur ***before*** the close of fact discovery. Further, Plaintiffs have all the information they need to amend the pleadings at this time; the extension to the fact discovery deadline is to account for the production of supplemental discovery, which has no bearing on Plaintiffs' ability to amend.

1 **9. Dispositive Motions:**

2 (a) The following deadlines shall apply to any *Daubert* or summary judgment
3 motions filed by any party to this action:

4 (i) Any *Daubert* or summary judgment motion, if any, shall be filed
5 by Monday, **July 14, 2025**.

6 (ii) Any opposition to any *Daubert* or summary judgment motion, if
7 any, shall be filed **within 60 days** of the opening brief.

8 (iii) Any reply in support of a *Daubert* or summary judgment motion,
9 if any, shall be filed **within 60 days** of the opposition brief.

10 **10. Pretrial Order:**

11 (a) If dispositive motions are not filed, a joint pretrial order, together with all
12 other pretrial submissions required by those rules (not including *in limine* motions), shall be
13 submitted on or before Monday, **August 11, 2025**. However, in accordance with LR 26-1(b)(5),
14 if dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended
15 until 30 days after the court issues decision on the dispositive motions or further court order.

16 (b) The Court shall hold a pre-trial conference on a date to be announced.

17 (c) Trial shall begin on a date to be announced.

18 **11. Depositions:**

19 (a) Depositions will be governed by Federal Rule of Civil Procedure 30. If
20 either party wants to take additional depositions beyond the 10 allotted under Rule 30, then they
21 must follow Rule 30(a)(2)'s requirements.

22 **12. Electronic Evidence:** The Parties have discussed whether they intend to present
23 evidence in electronic format to jurors for the purposes of jury deliberations and did not reach any
24 stipulations regarding providing discovery in an electronic format compatible with the court's
25 electronic jury evidence display system. The Parties intend to revisit the presentation of evidence
26 in electronic format to the jury for the purposes of jury deliberations in advance of the filing of
27 the joint pretrial order, and the Parties anticipate setting forth any stipulations reached as a result
28

1 of those discussions in the joint pretrial order or other submission submitted at the same time as
2 the joint pretrial order.

3
4 Upon consent of the parties:

5
6 DATED: June 18, 2024

KIRKLAND & ELLIS LLP

7
8 /s/ Mark S. Holscher

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1 DATED: June 18, 2024

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14 DATED: June 18, 2024

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22 DATED: June 18, 2024

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DATED: June 18, 2024

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Lead Counsel for Class Representatives

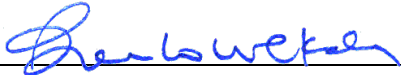
DATED: June 18, 2024

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Additional Counsel for Class Representatives

1 **IT IS SO ORDERED:**

2
3 Dated June 21, 2024
4 Las Vegas, Nevada


THE HONORABLE BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

5
6 **IT IS FURTHER ORDERED** that a supplemental privilege log related to the expedited
7 discovery ordered by the Court at ECF No. 373 shall be submitted within 21 days of
8 production of such expedited discovery.

9 **IT IS FURTHER ORDERED** that the deadline to amend pleadings is July 31, 2024.
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CERTIFICATE OF SERVICE

On June 18, 2024, I served the foregoing document on all parties appearing in this case when filing said document through the Court's PACER system with automatic e-service on all persons who have registered for e-service on PACER for this case.

/s/ Laura Bay

An employee of KIRKLAND & ELLIS LLP